



21st Floor
1251 Avenue of the Americas
New York, NY 10020

Katherine M. Bolger
212.489.8230 tel
212.489.8340 fax

Katebolger@dwt.com

July 22, 2024

SO ORDERED.

VIA ECF

Hon. Arun Subramanian
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St. Courtroom 15
New York, NY 10007-1312

A handwritten signature in blue ink, appearing to read 'Arun Subramanian'.

Arun Subramanian, U.S.D.J.
Date: July 23, 2024

Re: Wang v. Sussman et al., No. 1:24-cv-03987-AS

Dear Judge Subramanian:

We represent Defendants Sammy Sussman, Vox Media, LLC, and New York Media LLC (collectively, “Defendants”), in the above-referenced action. Pursuant to Paragraph 11(B) and (C)(ii)–(iii) of this Court’s Individual Practices in Civil Cases, Defendants respectfully request the Court’s permission to (1) file under seal an unredacted copy of Defendants’ memorandum of law in support of their forthcoming motion to dismiss (“Memorandum”) and exhibits to the declaration of the undersigned containing confidential information; and (2) file an unsealed copy of Defendants’ Memorandum that is redacted to the extent it describes or quotes confidential information within the exhibits.

Specifically, Defendants seek confidential treatment of two documents on which they intend to rely in moving to dismiss this case. The “courts of this country recognize a general right to inspect and copy public records and documents,” but the right “is not absolute,” and the common-law right of inspection has bowed before the power of the court to insure that its records are not used to gratify private spite or promote public scandal.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978) (quotation marks omitted).

Here, Defendants *first* seek to file under seal the decision in *In the Matter of The Arbitration Between Associated Musicians of Greater New York, Local 802, American Federation of Musicians and The Philharmonic-Symphony Society of New York, Inc.*, regarding the dismissals of Plaintiff Liang Wang and Matthew Muckey (“Arbitration Decision”). According to the Complaint, the Arbitration Decision contains quotations and descriptions of “confidential” arbitration testimony by witnesses “to whom representations were made that their testimony would remain private.” ECF No. 1 (Complaint) at 5 n.3. Among these witnesses were persons who gave highly sensitive and personal testimony as to allegations of sexual assault.

Second, Defendants seek to file under seal certain investigative files from the Vail Police Department regarding the sexual assault allegation made by Cara Kizer (“Police Report”). The

DWT.COM

Anchorage | Bellevue | Los Angeles | New York
Portland | San Francisco | Seattle | Washington, D.C.

Hon. Arun Subramanian

July 22, 2024

Page 2

Police Report contains highly sensitive information detailing Ms. Kizer's account of an alleged sexual assault, as well as the names and statements of witnesses interviewed as part of the investigation. While Ms. Kizer consented to be interviewed and identified for the story, the other individuals who spoke to the police are not identified in the story.

Both the Arbitration Decision and the Police Report therefore strongly implicate the "privacy interests of innocent third parties," *Citgo Petroleum Corp. v. Starstone Ins. SE*, No. 21-cv-00389, 2023 WL 7497858, at *2 (S.D.N.Y. Nov. 9, 2023), and Defendants respectfully request that those documents be filed under seal.

If the Court grants the sealing request, Defendants respectfully request that the Court also permit them to file a both an unredacted copy of their Memorandum under seal, as well as a public copy of their Memorandum with redactions for descriptions of confidential information from the Arbitration Decision and Police Report.

Plaintiff does not object to this request and reserves the right to modify his position. The parties are next scheduled to appear before the Court for an initial pretrial conference on August 1, 2024. Thank you for your consideration.

Respectfully submitted,

Davis Wright Tremaine LLP

/s/ Katherine M. Bolger

Katherine M. Bolger

cc: Counsel of Record (via ECF)